

providing information that Sprint has requested and needs in order to become operationally ready.” [Meyer-K at 14 (“SWBT has not provided Sprint any process flow diagrams or documentation” and “has not provided the information requested” “such as street address guides, current directory close dates, service availability by switch”)]

g. US West’s Failures

US West appears to be making less progress in meeting the OSS requirements than any other ILEC. On December 12, 1996, US West filed a petition requesting a “waiver” from the “requirements established in the [Order]” to have electronic interfaces to its OSS by the ordered deadline. [US West Petition for Waiver at 1] US West declared that it was “impossible” for it to meet the deadline, explaining that it had been proceeding under the erroneous assumption “that electronic access to OSSs would be somewhat circumscribed, being required only in the areas of call routing and control,” and that “unlike some other ILECs,” US West “was not subject to any state commission with respect to OSS access.” [US West Petition at 2-3] The request for waiver was denied, and the Commission’s Second Order on Recon reconfirmed that providing OSS access as required by the Order was “technically feasible” and “reasonable.” [Second Order on Recon ¶¶ 2, 5, 11, 13, 15]

h. GTE’s Failures

While it is difficult to determine the precise extent or lack of progress by GTE on providing adequate OSS functions, certain conclusions can be drawn: (i) GTE is “migrating to some new systems,” and also has “a subsequent release scheduled that may not require the new system” -- “[t]hat’s still being architected” [Cal PUC Workshop at 1275-76 (Seibold)]; (ii) GTE does not have “the measurements and performance on” its new gateway, called SIGS (Secure Interface Gateway System) [Cal PUC Workshop at 1275 (Seibold)]; and (iii) while it

says “[w]e intend to as soon as we can,” GTE “do[es] not provide the CSR through SIGS.” [Cal PUC Workshop at 1276 (Seibold)]

In Washington, GTE took the position that it did not have to provide proprietary customer information without written authorization from the customer. [Washington Report at 47] This was determined to be an unreasonable “obstacle,” and its position was rejected. [Washington Report at 48] GTE also resisted providing full electronic interfaces, and again, its position was rejected: “GTE should immediately implement an electronic interface to its OSS functions.” [Washington Report at 49] As explained in terms applicable to all ILECs, “[t]he FCC Order was released on August 8, 1996,” and “GTE has had a sufficient opportunity to inform itself regarding the requirements of the Order and to prepare its compliance with its terms and conditions.” [Washington Report at 50]

i. Other ILECs’ Failures

The Local Exchange Carrier Coalition (LECC), which consists of more than 300 non-Bell ILECs throughout the United States, asked the Commission to “extend the mandatory date for providing access to OSS functions to January 1, 1998” -- i.e., for a full year, assertedly because they could not meet the Order’s deadline. [Second Order on Recon ¶ 3] The Commission denied the request.

C. The Need for OSS Compliance by the ILECs

In its Second Reconsideration Order, the Commission concluded “that providing access to OSS functions is a critical requirement for complying with section 251, and incumbent LECs that do not provide access to OSS functions, in accordance with the *First Report and Order*, are not in full compliance with section 251.” [Second Order on Recon ¶ 11] Further, while the Commission noted that it did “not anticipate initiating enforcement action against incumbent

LECs that are making good faith efforts to provide such access within a reasonable period of time, pursuant to an implementation schedule approved by the relevant state commission,” it made clear that “[w]e do not, however, preclude initiating enforcement action where circumstances warrant”[Second Order on Recon ¶ 11] and gave the assurance that it “would ‘monitor closely the progress of industry organizations as they implement the rules adopted in this proceeding.’” [Second Order on Recon ¶ 13 (citing Order ¶ 528)] In addition, the Commission has recognized that “operational issues may be among the most difficult for the parties to resolve,” and that it “will be called upon to enforce . . . [its] rules relating to these operational barriers to entry.” [Order ¶ 19] In that context, and “[b]ecause of the critical importance of eliminating these barriers to the accomplishment of the Act’s pro-competitive objectives,” the Commission gave its assurance that it “intend[ed] to enforce our rules in a manner that is swift, sure, and effective.” [Order ¶ 19] The Commission therefore concluded that it was “vital” for it to “vigilantly and vigorously enforce the rules that we adopt today,” recognizing that, “[i]f we fail to meet that responsibility, the actions that we take today to accomplish the 1996 Act’s pro-competitive, deregulatory objectives may prove to be ineffective.” [Order ¶ 20] And the Commission stressed that it “stands ready to provide guidance to states and other parties regarding the statute and our rules.” [Order ¶ 125]

The Commission should provide such guidance for OSS access through specific performance criteria, formulated through an expedited rulemaking. It is wholly appropriate for the Commission to set out minimum obligations that must be fulfilled by an ILEC before it is deemed to be in compliance with the OSS requirements of the Order and Second Order on Recon, as called for by Order ¶ 328 (“The language of section 252(c)(3) is cast exclusively in terms of obligations imposed on incumbent LECs”), particularly in view of at least one ILEC’s

having taken the position that the Order “is not absolutely clear with respect to ILEC obligations for OSS access” [US West Petition at 2] and another ILEC’s construing “parity” to mean equality-of-access among CLECs [Sinn at 36-38] instead of equality-of-access with the ILEC [Order ¶¶ 316, 518, 523].

D. Importance of Setting OSS Compliance Guidelines

The ILECs continue their monopolies over local telephone markets. As matters now stand, competitive entry nationwide simply is not possible because, although the January 1, 1997 deadline has passed and continues to become more distant, the ILECs have failed to meet the OSS requirements set down by the Commission. There is no dispute that nondiscriminatory access to the ILECs’ OSSs is an absolutely necessary prerequisite to effective entry and competition in local markets by CLECs, and that delay serves only to reward the ILECs unwarrantedly and unfairly prejudice the new possible entrants. Nor is there any dispute that, without such effective entry, consumers will not get the benefits of competition, in decreased prices and increased quality, that was promised to them by Congress through passage of the Act more than a year ago. [See Order ¶ 11 (“Congress addressed these problems in the 1996 Act by mandating that the most significant economic impediments to efficient entry into the monopolized local market must be removed”); see also Business Week at 42 (“competition could cut local costs by 20% or \$50 million a day”)]

Setting clear OSS standards should provide a needed prod to the ILECs to do what the law requires and what they have known for long time they would have to do. Unfortunately, without such a prod, the ILECs are likely to continue to flout the law -- for it is in their economic interest, as well as perhaps in their nature, to do so. [See Order ¶ 10 (“Because an incumbent LEC currently serves virtually all subscribers in its local serving area, an incumbent LEC has

little economic incentive to assist new entrants in their efforts to secure a greater share of that market. An incumbent LEC also has the ability to act on its incentive to discourage entry and robust competition by not interconnecting its network with the new entrant's network") and ¶ 55 ("incumbent LECs have no economic incentive, independent of . . . the 1996 Act, to provide potential competitors with opportunities to interconnect with and make use of the incumbent LEC's network and services" and "incumbent LECs have strong incentives to resist [their] obligations" under the Act); see also Business Week at 42 ("Several of them [RBOCs] have revealed their anticompetitive tendencies by dragging out negotiations over letting new entrants resell their call-carrying capacity"); Dalton-R at 4 ("rather than working to make [UNE competition] happen, SWBT is working to make it not happen, doing all it can to make what should be a simple process complicated -- for competitors and customers")]

CONCLUSION/RELIEF REQUESTED

The typical ILEC response to a showing of OSS shortcomings has been assurances that the shortcoming has been fixed since the complaint was levied or the finding made, or that it will be fixed at some point in the future. If the past be a guide, then, it might be expected that the ILECs will take a similar tack here. In this sense, the ILECs' progress on OSS is a constantly moving target. This fact cannot negate the acknowledged failure of every ILEC to meet the Commission's January 1, 1997 deadline and their continuing failure to do so, nor should it deter the Commission from taking action now to remedy the situation.

Petitioners therefore request that the Commission, on an expedited basis, enter an order requiring that:

- each ILEC disclose (a) each OSS function for which it has established performance standards for itself; and (b) each OSS function for which it has not established performance standards for itself, and

- where the ILEC has established performance standards for itself, that the ILEC further disclose precisely what those performance standards are, together with appropriate historical data and measurement criteria.

Petitioners further request that the Commission thereafter determine the appropriate minimum performance standards for each OSS function (including those functions for which the ILEC has not established performance standards for itself), so that each ILEC will be in compliance with the OSS requirements of the Order. Petitioners further request that the Commission establish any related OSS requirements (e.g., appropriate beta testing to ensure operability and scalability) that must be met by an ILEC in both the resale and unbundled environments, including the network platform. Petitioners finally request that the Commission model these performance standards on the standards formulated by the Local Competition Users Group, attached as Appendices A and B.

By so ordering, the Commission will give much needed clarity, structure and finality to the OSS debate now raging that will benefit all concerned. With such an order:

- the ILECs will know what must be done for them to be in compliance,
- the CLECs will know that no more can be expected,
- needless debate will cease on the criteria for OSS compliance by the ILECs and on whether and when parity of OSS access is achieved, and
- local competitors will no longer be stymied by the ILECs' OSS roadblock.

Most importantly, American consumers will benefit from the robust, open competition on the merits in the local telephone market, which inevitably will follow from CLECs having parity of access to fully-functioning OSS.

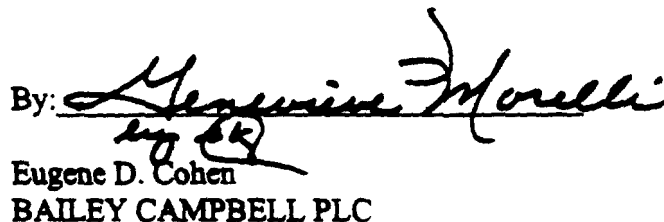
DATED: May 30, 1997

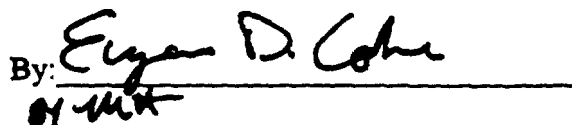
Respectfully submitted,

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